

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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SHAW FAMILY ARCHIVES, LTD.,  
BRADFORD LICENSING, INC., JAMES E.  
DOUGHERTY, and VALHALLA  
PRODUCTIONS, LLC.

Plaintiffs/Consolidated Defendants,

v.

CMG WORLDWIDE, INC. and MARILYN  
MONROE, LLC,

Defendants/Consolidated Plaintiffs.  
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05 CV 3939 (CM)

Honorable Colleen McMahon

**DECLARATION OF MARK ROESLER  
IN SUPPORT OF MARILYN MONROE, LLC's MOTION FOR SUMMARY  
JUDGMENT ON COUNT II AGAINST SHAW FAMILY ARCHIVES, LTD.**

GIBSON, DUNN & CRUTCHER LLP  
200 Park Avenue  
47th Floor  
New York, New York 10166-0193  
Telephone: (212) 351-4000  
Facsimile: (212) 351-4035

Attorneys for Defendants/Consolidated Plaintiffs  
CMG Worldwide, Inc. and Marilyn Monroe LLC

## **DECLARATION OF MARK ROESLER**

I, Mark Roesler, declare and state as follows:

1. I am over 18 years of age and am competent and capable of making this declaration in support of Marilyn Monroe, LLC's Motion for Summary Judgment on Count II against Shaw Family Archives, Ltd. I am the founder of CMG Worldwide, Inc. ("CMG") and currently serve as its Chairman and Chief Executive Officer. The following facts are personally known to me and, if called as a witness, I could and would testify competently thereto.

2. CMG has never given written consent for the Shaw Family Archives, or anyone else, to use Marilyn Monroe's name, picture, image or likeness on the T-shirts sold in Indiana or on the tags affixed to the T-shirts sold in Indiana as described in the Declaration of Tracy Betz.

3. CMG is the exclusive agent of Marilyn Monroe, LLC with respect to the licensing of products bearing Marilyn Monroe's name, image, picture or likeness. CMG originally secured the rights to manage and license Marilyn Monroe's publicity rights more than eleven years ago.

4. Shaw Family Archives, Ltd. ("SFA") and Bradford Licensing maintain a website advertising their products and services. The main page of the website is: [www.bradfordlicensing.com](http://www.bradfordlicensing.com). This website can be accessed by people within the State of Indiana. Before this lawsuit was filed, the website advertised and offered to all customers, including Indiana customers, the ability to purchase licenses for the use of Ms. Monroe's picture, image and likeness on various commercial products. Only after this case was filed, SFA and Bradford Licensing added the phrase "[n]o images shall be licensed for sale or distribution in Indiana or in any jurisdiction that also requires the consent of the right of publicity holder." True and accurate copies of pages printed from the website are attached hereto as Exhibit A. Despite

this change, people in Indiana can still view SFA's and Bradford Licensing's Internet website advertising with Marilyn Monroe's name, picture and likeness on it.

5. This website includes numerous pictures of Marilyn Monroe and numerous references to the name "Marilyn Monroe" or "Marilyn."

6. CMG has never given written consent for SFA's or Bradford Licensing's use of Ms. Monroe's name, picture, image or likeness in connection with its advertising and solicitations on this Internet website or for many of the licenses that SFA and Bradford Licensing offer for sale through this website. Despite this, SFA and Bradford Licensing have used Ms. Monroe's name, image, picture and likeness on the Internet website, and sold Marilyn Monroe's picture, image and likeness through these licenses, without CMG's consent.

I declare under penalty of perjury under the laws of the United States that I believe the foregoing is true and correct. Executed on this 29<sup>th</sup> day of September, 2006 in Indianapolis, Indiana.



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Mark Roesler